IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 26TH MARCH 2007 / 5TH CHAITHRA 1929

WP(C).No. 10305 of 2007(B)

PETITIONER:

P.USHA DEVI,PROPRIETRIX,BELL FOODS,
PALLICHAL ROAD,KOCHI-5.

BY ADV. SRI.V.P.SUKUMAR
SRI.JAIRAM.V.MENON

RESPONDENTS:
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1. THE ADDITIONAL SALES TAX OFFICER,
IIND CIRCLE,MATTANCHERRY.

2. THE SALES TAX APPELLATE TRIBUNAL,
ADDITIONAL BENCH,ERNAKULAM.

3. THE DEPUTY TAHSILDAR (RR),TALUK OFFICE,
KOCHI.

BY GOVERNMENT PLEADER SRI. MUHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 10305/2007 B

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ASSESSMENT ORDER DT. 12/5/2004 BY R1 FOR 99-00.

EXT.P2. COPY OF THE ASSESSMENT ORDER T. 12/5/2007 BY R1 FOR 2000-01.

EXT.P3. COPY OF THE COMMON FIRST APPELLATE ORDER DT. 2/5/2006 AGAINST EXT.P1 AND P2 ASSESSMENT ORDERS.

EXT.P4. COPY OF THE APPEAL DT. 4/08/06 FILED BY THE PETITIONER BEFORE THE TRIBUNAL FOR 99-00.

EXT.P5. COPY OF THE APPEAL DT. 4/08/06 FILED BY THE PETITIONER BEFORE THE TRIBUNAL FOR 2000-01.

EXT.P6. COPY OF THE ORDER DT. 13/09/2006 BY THE R2 TRIBUNAL.

EXT.P7. COPY OF THE ORDER DT. 21/12/2006 BY THE R2 TRIBUNAL.

EXT.P8. COPY OF THE ORDER DT. 19/3/07 BY THE R2.

EXT.P9. COPY OF THE RR NOTICE DT. 1/11/2004 ISSUED TO THE PETITIONER BY THE R3 FOR 99-00.

EXT.P10. COPY OF THE RR NOTICE DT. 1/11/04 ISSUED TO THE PETITIONER BY THE R3 FOR 2000-01.

True copy

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K.BALAKRISHNAN NAIR, J.

W.P.(C).No.10305 of 2007-B

Dated this the 26th day of March, 2007

JUDGMENT

The petitioner challenged Exts.P1 and P2 assessment orders before the first appellate authority which resulted in Ext.P3 common appellate order by the Deputy Commissioner (Appeals). She challenged that order by filing Exts.P4 and P5 appeals. Along with those appeals stay petitions were also filed. The Tribunal by Ext.P6 order granted interim stay of collection of the disputed tax upto 20-10-2006. Again by Ext.P7 order, stay was extended upto 28-2-2007. There was a direction to produce the assessment records, as per Ext.P6. Later, when the matter came up before the Tribunal on 19-3-2007, the stay was extended on condition of payment of 50% of the balance tax. This writ petition is filed challenging Ext.P8 order of the Appellate Tribunal.

2. I heard the learned Government Pleader for the respondents also.

3. Normally, stay should have been extended unconditionally, as it was granted earlier without any direction for payment of amount. But, the Tribunal is, of course, competent to impose any condition, provided any additional facts are placed before it and on consideration of the same, the Tribunal feels that the interim order should be changed. But, Ext.P8 is totally silent as to why it was decided to extend the stay, on payment of 50% of the amount. Therefore, Ext.P8 is quashed. The interim stay granted

earlier will be in force upto 24-4-2007. It is clarified that while extending the stay beyond 24-4-2007, the Tribunal will be free to impose any condition, if the facts justify the same. In that event the order must be a speaking order.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

MS